

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

ADAM INGLES, :

Plaintiff, : ORDER

- against - : 01 Civ. 8279 (DC)

THE CITY OF NEW YORK, et al., :

Defendants. :

- - - - - x

CHIN, D.J.

Under the Federal Rules of Civil Procedure, absent a written stipulation otherwise, the parties "must" obtain leave of court to take more than ten depositions per side. See Fed. R. Civ. P. 30(a)(2)(A) ("A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), . . . if, without the written stipulation of the parties . . . a proposed deposition would result in more than ten depositions being taken . . . by the plaintiffs, or by the defendants." (emphasis added)). Here, the parties have noticed far in excess of ten depositions per side, and they have done so without either a written stipulation or leave of the Court.

Pursuant to my instructions at a conference on April 1, 2004, the parties have submitted letters on the issue of the number of depositions each side may take.

In their four-page, single-spaced letter of April 13, 2004, plaintiffs' counsel fail to specify the number of depositions they wish to take, instead referring to four annexed

lists and requiring the Court to do the arithmetic. The four lists contain a total of 87 names -- additional proposed witnesses. Plaintiffs' counsel also fail in their letter to indicate how many depositions they have already taken in the case. According to defense counsel, plaintiffs had taken close to 50 depositions as of April 1, 2004. Hence, it would appear that plaintiffs are seeking to depose or have deposed some 140 witnesses.

This number is unacceptable. As plaintiffs argue, this is an important and complicated case, involving multiple institutions and many plaintiffs and defendants. But the parties are not entitled to depose every possible witness who might have some knowledge on the issues in question. Many of the witnesses, for example, would be cumulative. Indeed, plaintiffs have already deposed eight investigators and yet are seeking to depose five more investigators.

Defendants seek permission to take the depositions of the 22 named plaintiffs and 18 other non-party witnesses.¹

Upon consideration of the factors set forth in Rule 26(b)(2) and all the circumstances of this case,

IT IS HEREBY ORDERED as follows:

1. Plaintiffs may take 30 additional depositions, that is, 30 depositions in addition to any taken through today. The 30 additional depositions are to be limited as follows: 15

¹ The City defendants request 15 non-party witness depositions and defendant Caldero requests 3 such depositions.

of the depositions are limited to eight hours of questioning and 15 are limited to four hours of questioning.

2. All defendants may take a total of 40 depositions, inclusive of depositions already taken. Defendants may depose the 22 named plaintiffs and 18 other non-party witnesses. All of defendants' remaining deposition are to be limited to eight hours of questioning.

3. As for party witnesses, the above time limits apply to questioning by the adverse side, and does not include any "cross-examination" by counsel for the party witness. As for non-party witnesses, the above time limits apply to all questioning and the time is to be shared by the parties.

4. This order does not apply to depositions of expert witnesses.

SO ORDERED.

Dated: New York, New York
April 22, 2004


DENNY CHIN

United States District Judge



FACSIMILE TRANSMISSION FROM:

DENNY CHIN

United States District Judge

Daniel Patrick Moynihan United States Courthouse
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Time: 5:55

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To: _____

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Message: **** YOU ARE REQUIRED TO FAX COPIES OF THE ATTACHED DOCUMENT TO ALL COUNSEL OF RECORD IN THIS CASE ****

Number of Pages (including this cover page):

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